

# The Gazette of India

EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY

No. 29] NEW DELHI, THURSDAY AUGUST 10, 1961/SRAVANA 19, 1883

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th August, 1961:—

BILL No. 41 OF 1961

*A Bill further to amend the Indian Penal Code*

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 1961. Short title.

Act 45 of  
1860.

5 2. For section 153A of the Indian Penal Code (hereinafter referred to as the Code), the following section shall be substituted, namely,— Substitution  
of new  
section for  
section 153A.

“153A. Whoever—

10 (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes, or attempts to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, feelings of enmity or hatred between different religious, racial or language groups or castes or communities, or Promoting  
enmity between  
different  
groups  
on grounds  
of religion,  
race, language,  
etc., and  
doing acts  
prejudicial  
to maintenance  
of harmony.

15 (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial or language groups or castes or communities and which disturbs or is likely to disturb the public tranquillity,

20 shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

**Amendment  
of section  
295A.**

3. In section 295A of the Code,—

(a) for the words “by words, either spoken or written, or by visible representations”, the words “by words, either spoken or written, or by signs or by visible representations or otherwise” shall be substituted;

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(b) for the words “two years”, the words “three years” shall be substituted.

**Amendment  
of section  
505.**

4. In section 505 of the Code, for the words “two years”, the words “three years” shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

In order effectively to check fissiparous communal and separatist tendencies whether based on grounds of religion, caste, language or community or any other ground, it is proposed to amend section 153A of the Indian Penal Code so as to make it a specific offence for any one to promote or attempt to promote feelings of enmity or hatred between different religious, racial or language groups or castes or communities. The Bill also seeks to make it an offence for any one to do any act which is prejudicial to the maintenance of harmony between different religious, racial or language groups or castes or communities and which is likely to disturb public tranquillity. Section 295A of the Indian Penal Code is being slightly widened and the punishment for the offence under that section and under section 505 of the Code is being increased from two to three years.

NEW DELHI;

LAL BAHADUR.

*The 5th August, 1961.*

## BILL No. 42 OF 1961

*A Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, and to make certain minor amendments in the Two-Member Constituencies Abolition) Act, 1961.*

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title  
and com-  
mencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1961.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

## CHAPTER II

## AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950 10

Amendment  
of section 23  
of Act 43 of  
1950.

2. In section 23 of the Representation of the People Act, 1950 (hereinafter referred to as the 1950-Act), sub-sections (4) and (5) shall be omitted.

Insertion of  
new sections  
after section  
23.  
Appeals.

3. After section 23 of the 1950-Act, the following sections shall be inserted, namely:— 15

“24. An appeal shall lie within such time and in such manner as may be prescribed—

(a) to the Chief Electoral Officer, from any order of the Electoral Registration Officer under section 22 or section 23.  
and

(b) to the Election Commission, from any order of the Chief Electoral Officer under section 23.

25. Every application under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case, be refunded."

Fee for applications and appeals.

4. In section 27 of the 1950-Act,—

Amendment of section 27.

(a) in sub-section (5)—

(i) in clause (a), for the words "on the qualifying date was", the word "is" and for the words "before that date", the words "before the qualifying date" shall be substituted;

(ii) in clause (b), for the words "on the qualifying date was", the word "is" and for the words "before that date", the words "before the qualifying date" shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) For the purposes of sub-sections (4) and (5), the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced."

5. In section 28 of the 1950-Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 28.

"(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

6. In the Fourth Schedule to the 1950-Act—

(a) the heading "BOMBAY" and the entries under that heading shall be omitted;

Amendment of the Fourth Schedule.

(b) after the heading "MADRAS" and the entries thereunder, the following heading and entries shall be inserted, namely:—

"MAHARASHTRA

1. Municipal Committees.

2. District Local Boards.

3. Cantonment Boards.
4. District Boards. |
5. Town Committees.
6. Janapada Sabhas (Rural Circle)";

(c) under the heading "MYSORE"—

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(1) for the entry "2. District Boards and District Local Boards.", the entry "2. Taluk Development Boards." shall be substituted;

(2) the entry "5. Village Panchayats with a population of not less than five thousand." shall be omitted. 10

### CHAPTER III

#### AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment  
of section 30.

7. In section 30 of the 1951-Act,—

(a) in clause (a), for the words "tenth day", the words "seventh day" shall be substituted; 15

(b) in clause (b), for the words "third day", the words "second day" shall be substituted.

Amendment  
of section 33.

8. In section 33 of the 1951-Act, for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) Nothing in this section shall prevent any candidate 20 from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency."

Amendment  
of section 36.

9. In section 36 of the 1951-Act—

25

(a) in sub-section (2), in clause (a), for the words "that the candidate", the words "that on the date fixed for the scrutiny of nominations the candidate" shall be substituted;

(b) in sub-section (5), in the proviso, for the words "an objection is made", the words "an objection is raised by the 30 returning officer or is made by any other person" shall be substituted.

10. In section 37 of the 1951-Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment  
of section 37.

5 “(3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office.”.

11. In section 39 of the 1951-Act, in sub-section (1), in clause (a), for the words “tenth day”, the words “seventh day” shall be substituted. Amendment  
of section 39.

12. Section 54 of the 1951-Act shall be omitted.

Omission of  
section 54.

13. For section 58 of the 1951-Act, the following section shall be substituted, namely:— Substitution  
of new  
section for  
section 58.

“58. (1) If at any election,—

15 (a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be  
20 ascertained, or

Fresh poll  
in the case of  
destruction  
etc. of ballot  
boxes.

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

25 the returning officer shall forthwith report the matter to the Election Commission.

(2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either

30 (a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election. | 5

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll."

Omission of section 63. 14. Section 63 of the 1951-Act shall be omitted. 10

Amendment of section 67A. 15. In section 67A of the 1951-Act, the word and figures "section 54" shall be omitted.

Amendment of section 73. 16. In section 73 of the 1951-Act—  
 (a) for the words "the appropriate authority", the words "the Election Commission" shall be substituted, 15  
 (b) the words "together with the names of the persons, if any, nominated by the President or Governor to that House or Assembly, as the case may be;" shall be omitted.

Amendment of section 81. 17. In section 81 of the 1951-Act, after sub-section (2), the following sub-section shall be inserted, namely:— 20

"(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and one more copy for the use of the Election Commission, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition." 25

Amendment of section 83. 18. In section 83 of the 1951-Act, in sub-section (1), the following proviso shall be inserted at the end, namely:—

"Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof." 30

Amendment of section 86. 19. In section 86 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If the petition is not dismissed under section 85, the Election Commission shall send by post a copy thereof to each respondent and shall refer the petition to an Election Tribunal for trial." 35



20. In section 90 of the 1951-Act,—

Amendment  
of section  
90.

(a) in sub-section (3), for the words and figures "section 82 or section 117", the words and figures "or section 82" shall be substituted;

5 (b) in sub-section (6), for the words "publication of the copy of the petition in the Official Gazette", the words "reference of the petition to the tribunal for trial" shall be substituted.

21. In section 106 of the 1951-Act, the words "and shall cause the order to be published—" and clauses (a) and (b) shall be  
10 omitted.

Amendment  
of section  
106.

22. In section 116A of the 1951-Act,—

Amendment  
of section  
116A.

(a) in sub-section (4), after the word and figures "section 98", the words and figures "or section 99" shall be inserted;

15 (b) in sub-section (6), for clauses (a) and (b), the following shall be substituted, namely:—

"forward copies thereof to the authorities to which copies of the order of the tribunal were forwarded under section 106."

23. In section 117 of the 1951-Act, for the words "one thousand rupees", the words "two thousand rupees" shall be substituted.

Amendment  
of section  
117.

20 24. In section 120 of the 1951-Act, in sub-section (1), the following proviso shall be added at the end, namely:—

Amendment  
of section  
120.

25 "Provided that where a petition is dismissed under clause (a) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the Tribunal shall make an order for costs in favour of the returned candidate."

25. In section 123 of the 1951-Act,—

Amendment  
of section  
123.

(a) in clause (3)—

(i) the word "systematic" shall be omitted,

30 (ii) for the words "caste, race, community or religion", the words "religion, race, caste, community or language" shall be substituted;

(b) after clause (3), the following clause shall be inserted, namely:—

“(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of that candidate's election.”.

Insertion of new section 125 in Chapter III of Part VII. 26. In Chapter III of Part VII of the 1951-Act, before section 126, the following section shall be inserted, namely:—

Promoting enmity between classes in connection with election.

“125. Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.”.

Amendment of section 126.

27. In section 126 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) No person shall convene, hold or attend any public meeting within any polling area within twenty-four hours before the date of commencement of the poll or on the date or dates on which a poll is taken for an election in that polling area.”.

Insertion of new section after section 127.

28. After section 127 of the 1951-Act, the following section shall be inserted, namely:—

Restrictions on the printing of circulars, pamphlets, etc. having reference to election.

“127A. (1) No person shall print any circular, placard, pamphlet or poster having a reference to an election in any constituency unless a declaration by the publisher of such circular, placard, pamphlet or poster as to his identity attested by not less than two persons to whom the publisher is personally known is delivered to the printer by the publisher.

(2) No person shall print or publish any such circular, placard, pamphlet or poster as is referred to in sub-section (1) which does not bear on its face the names and addresses of the printer and the publisher thereof.

(3) The printer of every such circular, placard, pamphlet or poster as is referred to in sub-section (1) shall, immediately after the circular, placard, pamphlet or poster is printed, send

one printed copy thereof together with the declaration referred to in sub-section (1) to the returning officer of the constituency.

- 5 (4) Any person who contravenes the provisions of sub-section (1), sub-section (2) or sub-section (3) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both."

- 10 29. In section 139 of the 1951-Act, in sub-section (1), in clause (b), for the word and figures "section 135", the words and figures "section 125 or section 135" shall be substituted. Amendment of section 139.

30. In section 141 of the 1951-Act, in clause (a), for the word and figures "section 135", the words and figures "section 125 or section 135" shall be substituted. Amendment of section 141.

- 15 31. In section 158 of the 1951-Act, in sub-section (4), for the words "one-sixth" wherever they occur, the words "one-fifth" shall be substituted. Amendment of section 158.

32. In section 169 of the 1951-Act, for sub-section (3), the following sub-section shall be substituted, namely:-- Amendment of section 169.

- 20 " (3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid  
25 or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of  
30 anything previously done under that rule."

#### CHAPTER IV

##### MINOR AMENDMENTS IN THE TWO-MEMBER CONSTITUENCIES (ABOLITION)

Act, 1961

- 35 33. In the Two-Member Constituencies (Abolition) Act, 1961, the following amendments relating to matters of minor detail shall be made, namely:— Minor amendments in Act 1 of 1961.

(a) in section 7, in sub-section (1), for the words "the

Commission shall", the following words shall be substituted, namely:—

"the Commission may make such minor adjustments in the extent and boundaries of the constituencies as appear to it to be necessary or expedient in view of changes, if any, made in administrative units and shall thereafter";

(b) in section 8, for clause (b), the following clause shall be substituted, namely:—

"(b) where the boundaries or name of any district or any territorial division mentioned in a Schedule to the said Order or of any area within such district or division are or is altered, make such minor adjustments in the extent and boundaries of the constituencies as appear to it to be necessary or expedient in view of such alteration and thereafter make such amendments as appear to it to be necessary for bringing the Schedule up-to-date."

## STATEMENT OF OBJECTS AND REASONS

The Election Commission in its Report on the Second General Elections made a number of recommendations for the amendment of the election law. Some of these recommendations have already been implemented by making suitable amendments to the Representation of the People Act, 1951, by the Representation of the People (Amendment) Act, 1958 (58 of 1958) and also by the new Conduct of Elections Rules, 1961. The question of reservation of seats in single-member constituencies has been settled by the enactment of the Two-Member Constituencies (Abolition) Act, 1961.

2. The Election Commission, after reconsidering the other recommendations contained in the Report and reviewing the entire election law in the light of recent experience, has made a number of proposals for the amendment of the Representation of the People Acts, 1950 and 1951. Apart from these proposals of the Election Commission, certain other proposals for amendments to the election law, have been found necessary. The Bill seeks to give effect to all these proposals.

3. The important provisions of the Bill are explained in the Notes on Clauses.

ASOKE K. SEN.

NEW DELHI; |  
*The 8th August, 1961.*

*Notes on Clauses*

*Clauses 2 and 3.*—At present there is no provision for an appeal against orders of an Electoral Registration Officer under section 22 amending, transposing or deleting entries in electoral rolls or refusing to do so. This sometimes leads to dissatisfaction. Under section 23 also, the existing right of appeal is restricted to cases where an application for inclusion of a name is rejected by the Electoral Registration Officer or by the Chief Electoral Officer, and not where it is accepted despite contention. It is proposed to provide for an appeal against every order made under section 22 or section 23. Further, it is considered that a small fee may be prescribed for applications under section 22 as it is already prescribed for applications under section 23.

*Clause 4.*—Under sub-section (5) of section 27, a person has to be ordinarily resident on the qualifying date in a graduates'/teachers' constituency in order to be eligible for registration as an elector in that constituency. If he shifts his place of ordinary residence during the year from one constituency to another, he will have to wait till the next year's revision for getting himself enrolled in the appropriate electoral roll. As in the case of parliamentary and assembly electoral rolls, ordinary residence need not be tied up to the qualifying date. It is accordingly proposed to amend sub-section (5) of section 27 to enable a graduate or teacher to apply for enrolment as soon as he takes up ordinary residence in a constituency.

Under sub-section (6) of section 27, the qualifying date for enrolment in the electoral roll for graduates' or teachers' constituencies is the 1st day of January of the year in which the roll is prepared or revised. Since the biennial elections in these constituencies have to be held in most of the States in the months of March and April, the revision of the rolls has to be rushed through. In order to allow more time, it is proposed that the qualifying date should be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced.

*Clause 6.*—The Government of Maharashtra has intimated that at present there are no District Panchayats in the State of Maharashtra; and the Government of Mysore has stated that District Boards and District Local Boards have been replaced by Taluk Development Boards and that even larger village panchayats need not be treated as eligible local bodies for elections to the State Legislative Council from the local authorities' constituencies. By this

clause it is accordingly proposed to amend the list of local authorities for Maharashtra and Mysore.

*Clause 7.*—In order to reduce the overall period of elections, it is proposed to curtail the time available for making nominations as well as for scrutiny of nominations by reducing the period from ten days to seven days and from three days to two days, respectively. Such reduction will incidentally tend to keep the election expenses low.

*Clause 8.*—The number of nomination papers which a candidate may present is not now restricted by law and this omission appears to have been taken undue advantage of by some candidates. A multiplicity of nomination papers filed by the same candidate unnecessarily increases the labour of the returning officer and the other candidates during scrutiny. The Election Commission accordingly recommended in Chapter XII of its Report on the Second General Elections that the maximum number of nomination papers that may be presented by or on behalf of the same candidate in the same constituency should be restricted to four only.

*Clause 9.*—There have been doubts as to the exact date to which the qualification or disqualification of a candidate should be related under clause (a) of sub-section (2) of section 36. This is sometimes material, *e.g.*, in regard to the age of a candidate or in regard to the subsistence of a contract with the appropriate government, etc. To remove these doubts, it is proposed that the qualification or disqualification of a candidate should be related to the date fixed for the scrutiny of nominations.

Similarly, under the proviso to sub-section (5) of this section it is not clear whether an objection to a person's candidature can be made only by another candidate or also by any other person including the returning officer. The proposed amendment of the proviso to sub-section (5) seeks to make it clear that such objection may be raised by any person including the returning officer.

*Clause 10.*—At present there is no provision in the Act requiring the returning officer to be satisfied about the genuineness of any notice of withdrawal of candidature. Under section 37, as soon as a notice of withdrawal is delivered to the returning officer, it is affixed in some conspicuous place in his office. The Election Commission by recommendation No. 7 in Chapter XXX of its Report suggested that the returning officer should be satisfied as to the genuineness of any notice of withdrawal and the identity of the person delivering it, before causing the notice to be affixed in some conspicuous place in his office. This recommendation of the Election Commission is sought to be implemented by this clause.

*Clauses 12 and 14.*—After the abolition of two-member parliamentary and assembly constituencies sections 54 and 63 have become superfluous.

*Clause 13.*—The Election Commission has recommended that the Commission should be vested with a greater discretion in ordering a fresh poll under section 58. Section 58 has accordingly been suitably amended to give effect to this recommendation.

*Clause 16.*—At present the final notification under section 73 which may be called the “due constitution” notification is issued by the President in the case of the Lok Sabha and by the Governor in the case of the State Legislative Assembly. Sometimes, the issue of this notification is held up for the sake of obtaining names of nominated members. “Due constitution” of the Lok Sabha or the State Legislative Assembly on a General Election has very little to do with the nomination of members by the President or the Governor. Further, the function of notifying the names of all elected members in a consolidated form after the General Election may more appropriately be performed by the Election Commission which, under the Constitution (article 324) is responsible for the conduct of the General Elections. Hence the amendments proposed in this clause.

*Clause 17.*—At present section 81 of the Act, which deals with the presentation of election petitions, does not require the petitioner to supply the necessary number of copies of the petition to the Election Commission; the result is that the requisite number of copies for being served on the respondents are prepared in the Commission’s office. When the petition is a lengthy one with a number of schedules and annexures and the number of respondents is also large, the task of preparing the requisite number of copies takes an appreciable time of the staff of the Commission. By recommendation No. 23 in Chapter XXX of its Report, the Commission has accordingly suggested that a legal provision should be made making it obligatory for every petitioner to file with the election petition sufficient number of copies of the petition. The Commission has recently reiterated this recommendation with specific proposals in this behalf. By this clause this recommendation is proposed to be implemented.

*Clause 18.*—Under section 83 of the Act, every election petition is to be verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings. In spite of such verification, it has been found in practice that petitioners sometimes make allegation of corrupt practice in a careless manner



without realising the seriousness of the allegation. It is accordingly proposed that where a petitioner alleges any corrupt practice in an election petition, the petition shall be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

*Clause 19.*—Sub-section (1) of section 86 as it stands at present requires the publication of each election petition in the Gazette of India or the State Official Gazette, as the case may be. This, however, in the opinion of the Election Commission, does not serve any useful purpose, as Official Gazettes are seldom read by the public. This compulsory publication in the Official Gazette besides being expensive to Government also involves some delay in referring the petition to a tribunal for trial. It is accordingly proposed to amend sub-section (1) of section 86 to give effect to this proposal. Incidentally, this will also have the effect of giving effect to recommendation No. 17 in Chapter XXX of the Report of the Commission.

*Clause 20.*—The Election Commission has urged that the question whether a petitioner has deposited the requisite amount under section 117 as security for costs should be left entirely to the Commission to decide. The Commission invariably satisfies itself whether this deposit has been made or not. There is no reason why the question should be allowed to be agitated once again before the tribunals or the courts. As a matter of fact, sub-section (3) of section 90 has been responsible for a number of writ petitions and appeals right up to the Supreme Court and enormous delay in the disposal of some election petitions. It is accordingly proposed to delete the reference to section 117 occurring in sub-section (3) of section 90.

*Clause 21.*—Under section 106, every judgment of the tribunal is to be published in the Official Gazette. This is not at all necessary from the practical point of view as very few of the general public have access to the Official Gazette or care to read it. Nobody really benefits from such publication which usually takes place two or three months after the pronouncement of the judgment. The Commission has accordingly recommended that the requirement as to publication in the Official Gazette may be safely done away with.

*Clause 22.*—While sub-section (1) of section 116A provides for appeals from orders made under section 99, the power to stay operation of the order appealed from is limited under sub-section (4)

to orders made under clause (b) of section 98. This sometimes gives rise to difficulties. The Election Commission has accordingly recommended that the scope of sub-section (4) of section 116A should be extended to orders under section 99.

*Clause 23.*—The sum of one thousand rupees which a petitioner is required to deposit along with an election petition does not appear to be sufficient. Hence it is proposed to increase this amount to two thousand rupees.

*Clause 24.*—At present, under section 120, the rule is that costs incurred in connection with an election petition are in every case in the discretion of the Tribunal. But this discretion does not appear always to have been judicially exercised. It has been found that even in cases where an election petition has been dismissed at the conclusion of the trial, Tribunals have not awarded costs to the returned candidate without any reasonable justification. It is, therefore, proposed to make an exception to the general rule by providing in section 120 that in the case of dismissal of an election petition, the returned candidate shall be entitled to the costs incurred by him in contesting the petition.

*Clauses 25, 26, 29 and 30.*—For curbing communal and separatist tendencies in the country it is proposed to widen the scope of the corrupt practice mentioned in clause (3) of section 123 of the 1951-Act (as in sub-clause (a) of clause 25), and to provide for a new corrupt practice (as in sub-clause (b) of clause 25) and a new electoral offence (as in clause (26) for the promotion of feelings of hatred and enmity on grounds of religion, race, caste, community or language. It is also proposed that conviction for this new offence will entail disqualification for membership of Parliament and of State Legislatures and also for voting at any election. This is proposed to be done by suitable amendments in section 139 and section 141 of the 1951-Act as in clauses 29 and 30 respectively.

*Clause 27.*—Under section 126 public meetings are prohibited within any polling area only on the polling day. The Election Commission is, however, of the opinion that for the smooth and orderly conduct of elections no meetings should be allowed to be held also within twenty-four hours before the date of the poll.

*Clause 28.*—It has been found that during election time, many circulars, placards, pamphlets, etc. of an objectionable nature are issued without the names of the printer and the publisher shown thereon, or with faked names. These objectionable practices should be stopped. It is, therefore, proposed that no printer shall print any circular, placard, pamphlet, etc. unless a declaration by the publisher attested by

at least two witnesses is delivered to the printer and that no person shall print or publish any circular, placard, pamphlet, etc. without the names and addresses of the printer and the publisher shown thereon. Provision is also proposed to be made requiring the printer to send one printed copy of every circular, placard, pamphlet, etc. to the returning officer together with the declaration of the publisher. A contravention of any of these provisions will be an offence punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

*Clause 31.*—Undue multiplicity of candidates at an election is undesirable and confusing. Effective checks should be devised to curb light-hearted participation in electoral contests. The Election Commission by recommendation No. 11(a) in Chapter XXX of its Report accordingly suggested an amendment of section 158 so as to require a candidate to poll one-fifth of the valid votes instead of one-sixth before he is considered to be entitled to a refund of the deposit made by him. Section 158 is accordingly proposed to be amended to give effect to this recommendation.

*Clause 33.*—In the course of bifurcation of two-member constituencies, the Election Commission has found that changes in administrative units have taken place in many constituencies necessitating minor adjustments in the extent and boundaries of the constituencies. But the Commission has no power at present to make such adjustments. A few minor amendments in sections 7 and 8 of the Two-Member Constituencies (Abolition) Act, 1961 have accordingly been proposed.

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M. N. KAUL,  
*Secretary.*

